



Rep. Esther Golar

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1 AMENDMENT TO HOUSE BILL 2846

2 AMENDMENT NO. _____. Amend House Bill 2846 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Best
5 Candidate for the Job Act.

6 Section 5. Purpose. This Act is intended to ensure that
7 private employers properly consider persons previously
8 convicted of one or more criminal offenses for employment.

9 Section 10. Definitions. As used in this Act:

10 "Direct relationship" means that the nature of criminal
11 conduct for which the person was convicted has a direct bearing
12 on his or her fitness or ability to perform one or more of the
13 duties or responsibilities necessarily related to the
14 opportunity or job in question.

15 "Employment" means any occupation, vocation, or

1 employment, or any form of vocational or educational training.
2 "Employment" does not, for the purposes of this Act, however,
3 include membership in any law enforcement agency.

4 "Private employer" means any person, company, corporation,
5 labor organization, or association that employs one or more
6 persons.

7 Section 15. Applicability. This Act applies to any person
8 who applies for employment at any private employer or who is
9 currently employed who has previously been convicted of one or
10 more criminal offenses in any jurisdiction or whose conviction
11 of one or more criminal offenses in any jurisdiction preceded
12 such employment, except when a mandatory forfeiture,
13 disability, or bar to employment is imposed by law and has not
14 been removed by an executive pardon, certificate of relief from
15 disabilities, or certificate of good conduct. Nothing in this
16 Act shall be construed to affect any right an employer may have
17 with respect to an intentional misrepresentation in connection
18 with an application for employment made by a prospective
19 employee or previously made by a current employee.

20 Section 20. Discrimination against persons previously
21 convicted of one or more criminal offenses prohibited. No
22 application for any employment and no employment held by an
23 individual, to which the provisions of this Act are applicable,
24 shall be denied or acted upon adversely by reason of the

1 individual's having been previously convicted of one or more
2 criminal offenses or by reason of a finding of lack of good
3 moral character when such finding is based upon the fact that
4 the individual has previously been convicted of one or more
5 criminal offenses, unless, after carefully considering the
6 factors specified in Section 25, the employer determines that:

7 (1) there is a direct relationship between one or more
8 of the previous criminal offenses and the specific
9 employment sought or held by the individual; and

10 (2) the granting or continuation of the employment
11 would involve a substantial risk to property or to the
12 safety or welfare of specific individuals or the general
13 public.

14 Section 25. Factors to be considered concerning a previous
15 criminal conviction.

16 (a) In making a determination pursuant to Section 20, the
17 private employer shall consider the following factors:

18 (1) The public policy of this State to encourage the
19 employment of persons previously convicted of one or more
20 criminal offenses.

21 (2) The specific duties and responsibilities
22 necessarily related to the employment sought or held by the
23 person.

24 (3) The bearing, if any, the criminal offense or
25 offenses for which the person was previously convicted will

1 have on his or her fitness or ability to perform one or
2 more of the duties or responsibilities necessarily related
3 to the job or opportunity in question.

4 (4) Any evidence demonstrating the ability of the
5 applicant or employee to perform the responsibilities of
6 the job or opportunity in question.

7 (5) The time that has elapsed since the occurrence of
8 the criminal offense or offenses.

9 (6) The age of the person at the time of occurrence of
10 the criminal offense or offenses.

11 (7) The seriousness of the offense or offenses.

12 (8) The circumstances surrounding the offense or
13 offenses.

14 (9) Any information produced by the person, or produced
15 on the person's behalf, in regard to the person's
16 rehabilitation and good conduct.

17 (10) The legitimate interest of the private employer in
18 protecting property and the safety and welfare of specific
19 individuals or the general public.

20 (b) In making a determination pursuant to Section 20, the
21 private employer shall also give consideration to a certificate
22 of relief from disabilities or a certificate of good conduct
23 issued to the applicant, which certificate shall create a
24 presumption of rehabilitation in regard to the offense or
25 offenses specified therein.

1 Section 30. Employer protections. If an employer
2 demonstrates that it has hired an individual pursuant to this
3 Act, except for a willful or wanton act by the employer in
4 hiring the individual, the employer shall not be civilly or
5 criminally liable for an act or omission by the employee.

6 Section 35. Retaliatory or discriminatory acts. A person
7 shall not retaliate or discriminate against a person because
8 the person has done or was about to do any of the following:

9 (1) File a complaint under this Act.

10 (2) Testify, assist, or participate in an
11 investigation, proceeding, or action concerning a
12 violation of this Act.

13 (3) Oppose a violation of this Act.

14 Section 40. Waiver. An employer shall not require an
15 applicant or employee to waive any right under this Act. An
16 agreement by an applicant or employee to waive any right under
17 this Act is invalid and unenforceable.

18 Section 45. Remedies.

19 (a) A person who is injured by a violation of this Act may
20 bring a civil action in circuit court to obtain injunctive
21 relief or damages, or both.

22 (b) The court shall award costs, reasonable litigation
23 expenses, and reasonable attorney's fees to a person who

1 prevails as a plaintiff in an action authorized under
2 subsection (a) of this Section.".